

Filed for intro on 02/24/97
SENATE BILL 968 By
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HOUSE BILL 1565
By Langster

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 11, relative to chemically-dependent felony offenders.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 11, is amended by adding Sections 2 through 10 of this act as a new, appropriately designated part.

SECTION 2. The title of this part shall be known, and may be cited as, the "Tennessee Standardized Treatment Program for Chemically-Dependent Felony Offenders".

SECTION 3.

(a) The general assembly hereby declares that the comprehensive evaluation, identification, treatment, and continued monitoring of chemically-dependent felony offenders who are subject to the supervision of the criminal justice system are necessary in order to work toward the elimination of recidivism by such offenders. The general assembly hereby takes note of the fact that most of the inmates committed to the custody of the department of correction are chemically-dependent individuals whose dependency played a significant contributory role in their criminal tendencies.

(b) Therefore, in order to promote and protect public safety, the general assembly hereby creates a program which standardizes the evaluation, identification, treatment, and continued monitoring of chemically-dependent felony offenders at each stage of the criminal justice system so that such offenders will curtail chemical

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dependency. The general assembly hereby recognizes that some chemically-dependent felony offenders cannot or will not respond to treatment and that, in creating the program described in this part, the general assembly does not intend to imply that all chemically-dependent felony offenders can be successful in treatment.

SECTION 4. As used in this part, unless the context otherwise requires:

(1) "Board" means the chemically-dependent felony offender treatment board created in Section 5;

(2) "Chemically-dependent" means having an addiction to, or a recurring tendency toward the abuse of, alcohol and/or other drugs.

(3) "Chemically-dependent felony offender" means any person who is:

(A) Convicted, on or after January 1, 1998, in this state of any felony offense or in another state of conduct that constitutes a felony offense in this state; and

(B) Chemically-dependent; and

(C) Subject to parole, probation or other supervision by the department of correction.

(4) "Felony offense" means any criminal conduct designated by state law as a felony.

(5) "Treatment" means therapy and supervision of a chemically-dependent felony offender in conformity with the standards created by the board pursuant to Section 5.

SECTION 5.

(a) There is hereby created, in the department of correction, a chemically-dependent felony offender treatment board which shall consist of thirteen (13) members.

The membership of the board shall consist of the following persons:

(1) One (1) member representing the judicial branch, appointed by the chief justice of the supreme court;

(2) Two (2) members representing the department of correction, appointed by the commissioner of correction;

(3) One (1) member representing the Tennessee bureau of investigation, appointed by the director;

(4) One (1) member representing the department of health, appointed by the commissioner of health;

(5) Three (3) members, appointed by the commissioner of correction, who are licensed mental health professionals with demonstrated expertise in the successful treatment of chemically-dependent persons;

(6) One (1) member, appointed by the commissioner of correction, who is a district attorney general;

(7) One (1) member, appointed by the commissioner of correction, who is a member of a community corrections advisory board;

(8) One (1) member, appointed by the commissioner of correction, who is a public defender;

(9) One (1) member, appointed by the commissioner of correction, who is representative of law enforcement; and

(10) One (1) member, appointed by the presiding officer of the board, who is a representative of the board of paroles.

(b) The commissioner of correction shall appoint a presiding officer for the board from among the board members appointed pursuant to subsection (a). The presiding officer shall serve as such at the pleasure of the commissioner.

(c)

(1) Any member of the board who is appointed pursuant to subdivisions

(a)(1)-(4) shall serve at the pleasure of the official who appointed such member,

for a term which shall not exceed four (4) years. Such members shall serve without additional compensation.

(2) Any member of the board who is appointed pursuant to subdivisions (a)(5)-(9) shall serve for a term of four (4) years. Such members shall serve without compensation.

(d) The board shall carry out the following duties:

(1) Prior to January 1, 1998, the board shall develop and prescribe a standardized procedure for the identification and evaluation of chemically-dependent felony offenders and shall recommend behavior management monitoring and treatment for such offenders.

(2) Prior to January 1, 1998, the board shall develop guidelines and standards for a system of programs for the treatment of chemically-dependent felony offenders which can be utilized by offenders who are placed on probation, incarcerated within the department of correction, placed on parole, placed in community corrections, or otherwise under the supervision of the department of correction. The programs developed shall be as flexible as possible so that such programs may be utilized by each offender to prevent the offender from harming victims and potential victims. Such programs shall be structured in a manner that the programs provide a continuing monitoring process as well as a continuum of treatment programs for each offender as that offender proceeds through the criminal justice system and may include, but shall not be limited to, polygraph examinations by therapists and probation officers, frequent testing to detect any usage of alcohol and/or other drugs, group counseling, individual counseling, outpatient treatment, inpatient treatment, or treatment in a therapeutic community. Such programs shall be developed in a manner that, to the extent possible, the programs may be accessed by all chemically-dependent felony

offenders in the criminal justice system. The procedures for evaluation, identification, treatment, and continued monitoring required to be developed shall be implemented only to the extent that funds are available in the chemically-dependent felony offender treatment fund created in Section 10.

(3) The board shall develop a plan for the allocation of moneys deposited in the chemically-dependent felony offender treatment fund created pursuant to Section 10 among the judicial branch, the department of correction, and the department of health. In addition, the board shall coordinate the expenditure of funds from the treatment fund with any funds expended by any of the departments listed in this subdivision for the identification, evaluation, and treatment of chemically-dependent felony offenders. The plan developed pursuant to this section shall be submitted to the general assembly on or before January 1, 1998. For the fiscal year beginning July 1, 1998, the general assembly shall appropriate moneys from the treatment fund in accordance with such plan; and

(4) The board shall research and analyze the effectiveness of the evaluation, identification, and treatment procedures and programs developed pursuant to this part. The board shall also develop and prescribe a system for tracking offenders who have been subjected to evaluation, identification, and treatment pursuant to this part. In addition, the board shall develop a system for monitoring offender behaviors and offender adherence to prescribed behavioral changes. The results of such tracking and behavioral monitoring shall be a part of any analysis made pursuant to this subdivision; and

(e) The board and the individual members thereof shall be immune from any liability, whether civil or criminal, for the good faith performance of the duties of the board.

SECTION 6.

(a) On or after January 1, 1998, each felony offender shall be required to submit to screening for identification and evaluation of chemical dependency, analysis of risk to victims or potential victims, amenability to treatment and behavior management under the procedures developed pursuant to Section 5(d)(1).

(b) Those offenders found guilty at trial or who plead guilty without an agreement as to the length of sentence and/or probation and/or alternative sentencing that are to have a pre-sentence report prepared for submission to the court shall be required to submit to the screening for identification and evaluation referred to in subsection (a). Such screening for identification and evaluation shall be included as part of the pre-sentence report and shall be considered by the court in determining the sentencing issues herein stated. If the court grants probation or alternative sentencing, any plan of treatment and monitoring recommended by such identification and evaluation shall be a condition of the probation or alternative sentencing. Those offenders, that, as part of a negotiated settlement of their case, are to be placed on probation or alternative sentencing shall be required to submit to the screening for identification and evaluation referred to in subsection (a) as a condition of their probation or alternative sentencing and any plan of treatment and monitoring recommended by such evaluation shall be a condition of probation or alternative sentencing.

(c) The screening for identification and evaluation required by subsection (a) shall be at the expense of the offender based upon such person's ability to pay. The plan of treatment and behavior management and monitoring shall be at the expense of the offender based upon such person's ability to pay.

SECTION 7.

(a) Each chemically-dependent felony offender sentenced by the court for an offense committed on or after January 1, 1998, is required, as a part of any sentence to

probation, community corrections, or incarceration with the department of correction, to undergo treatment and monitoring to the extent appropriate to such offender based upon the recommendations of the screening for identification and evaluation made pursuant to Section 6, or based upon any subsequent recommendations by the department of correction or the judicial branch, whichever is appropriate. Any such treatment and monitoring shall be at such person's own expense, based upon such person's ability to pay for such treatment.

(b) Each chemically-dependent felony offender placed on parole by the state board of parole on or after January 1, 1998, is required, as a condition of such parole to undergo treatment and monitoring to the extent appropriate to such offender based upon the recommendations of the screening for identification and evaluation made pursuant to Section 6 or any evaluation or subsequent reevaluation regarding such person during the person's incarceration or any period of parole. Any such treatment and monitoring shall be at such person's expense, based upon such person's ability to pay for such treatment and monitoring.

SECTION 8. The department of correction or the judicial branch, or the department of health shall not employ or contract with any individual or entity to provide treatment and monitoring services pursuant to this part unless the treatment and monitoring services to be provided by such individual or entity conform with the standards developed pursuant to Section 5(d)(2).

SECTION 9. On or before March 1, 1999, the board shall report to a joint meeting of the judiciary committees of the senate and the house of representatives regarding implementation of this part, the standardized procedures developed pursuant to this part, and the results of the programs created by this part.

SECTION 10.

(a) For purposes of this section, unless the context otherwise requires, “convicted” and “convictions” means an adjudication of guilt of a felony offense as defined in this part as hereinbelow described:

- (1) Plea of guilty, including a plea of guilty entered pursuant to § 40-35-313;
- (2) Verdict of guilty by a judge or jury;
- (3) Plea of no contest; and
- (4) Best interest plea.

(b) On and after July 1, 1998, each chemically-dependent person who is convicted of a felony offense as defined in this part shall pay a tax to the clerk of the court in which the conviction occurs in an amount not to exceed three thousand dollars (\$3,000) as determined by the court for each conviction as defined by this part.

(c) The clerk of the court shall allocate the tax required by subsection (b) as follows:

(1) Five percent (5%) of the tax paid shall be retained by the clerk for administrative costs incurred pursuant to this subsection.

(2) Ninety-five percent (95%) of the tax paid shall be transferred to the state treasurer who shall credit the same to the chemically-dependent felony offender treatment fund created pursuant to subsection (d).

(d) There is hereby created in the state treasury a chemically-dependent felony offender treatment fund which shall consist of moneys received by the state treasurer, pursuant to this part. All interest derived from the deposit and investment of this fund shall be credited to the general fund. Any moneys not appropriated by the general assembly shall remain in the chemically-dependent felony offender treatment fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year. All moneys in the fund shall be subject to annual appropriation by the general

assembly to the judicial branch, the department of correction, and the department of health, after consideration of the plan developed pursuant to Section 5(d)(3), to cover the direct and indirect costs associated with the evaluation, identification, and treatment and the continued monitoring of chemically-dependent felony offenders.

(e) The court may waive all or any portion of the tax required by this section if the court finds that a person convicted of a felony offense is indigent or financially unable to pay.

(f) For the purposes of collecting any unpaid balance of the tax imposed by this part, the department of correction shall deduct from the trust fund account of any chemically-dependent felony offender who is in custody of the department of correction those moneys necessary to satisfy the unpaid tax.

SECTION 11. This act shall take effect July 1, 1997, the public welfare requiring it.